IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 543 OF 2007

Shri Dinesh Vithal Chaturvedi ..Petitioner

Vs.

CBI, Anit Corruption Branch,
Mumbai and anr. ..Respondents

Mr. Maheshwari, Senior Counsel with Mr. Amit Sheth for the applicant.
Mr. J.C. Satpute for respondent no.1.
Nr, Y.M. Nakhawa, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : July 06, 2007.

P.C.:

1. Rule. Rule is taken up for final hearing forthwith.

2. Heard Mr. Maheshwari, the learned Senior Counsel for the applicant. Mr. Satpute the learned Standing Counsel has addressed on behalf of the respondent no.1 in addition to the affidavit in reply filed by the Inspect of Police, representing the

respondent no.1 - Investigating Agency.

3. M/s.Sunain Trading Pvt. Ltd. and M/s. Chitij Trading Pvt. Ltd. are the two companies incorporated under the Companies Act, 1956 with their registered office at A-7, Ratandeep Building, 140, S.V. Road, Andheri (West), Mumbai sometimes in March, 1991. Initially Shri Narain Mohan Chaturvedi and Shri Prabhat Chaturvedi were two directors of the said Companies and subsequently the present applicant Shri Dinesh Vithal Chaturvedi also joined the Board of the said Companies. Both these companies had their accounts with the Vile-Parle Branch (Mumbai) of the Central Bank of India and they had applied for letter of credit facility and credit facilities for conducting the business. M/s. Sunain Trading Pvt. Ltd. was granted letter of credit for an amount of Rs.25,12,500/- on 18/6/1991 and another letter of credit for an amount of Rs.15,31,875/-. Whereas, in respect of M/s. Chitij Trading Pvt. Ltd., a letter of credit was opened by the Central Bank of India for an amount of Rs.30,23,437/- on 20/7/1991. Both of

them had given collateral securities for grant of letter of credit and 10% margin in accordance with banking norms and rules and which were accepted by the bank. The amounts were paid back. It appears that the Central Bank of India for some reasons or the other decided to hand over to the respondent no.1 for investigation certain loan accounts as well as the letter of credit facilities granted to the few companies. The respondent no.1 registered an F.I.R. on 5/5/1993 for the offences punishable under Sections 420, 120-B of IPC and under Section 13(2) read with Section 13(1)(D) of the Prevention of Corruption Act, 1988 for initiating action against certain officials of the Central Bank of India. The CBI filed charge-sheet on 28/11/2004 before the Special Court, CBI, Mumbai against officials of the Bank and some other parties, including the directors of these two companies i.e. M/s. Sunain Trading Pvt. Ltd. and M/s. Chitij Trading Pvt. Ltd. The applicant being one of the directors of the said two companies has also been implicated as one of the accused in the said case instituted by the respondent no.1 and process has been issued against him by the learned Additional

Sessions Judge in Criminal Special Case No.45 of 2001. By this application filed under Section 482 of Cr.P.C. the applicant prays for quashing the said case.

4. As stated earlier these two companies have three directors and the applicant is one of them. Shri Narain Mohan Chaturvedi, another director, had approached this court for the very same relief as prayed for in this application by filing Criminal Application No. 5264 of 2004. Mr. S.R.Gopinath, the Chief Manager of the respondent no.3-Bank had filed his affidavit-in-reply in Criminal Application No. 5264 of 2004. This court by its Judgment dated 22/12/2006 allowed the said application by noting that the respondent no.3-Bank has specifically stated that as per its record there was no outstanding against the applicant and the Bank had issued no outstanding certificate in favour of M/s. Sunain Trading Pvt. Ltd. and M/s. Chitij Trading Pvt. Ltd. as well as M/s. Vidani Engineering Ltd. This court also noted that the FIR was filed in the year 1993 by the respondent no.1 and the suit filed for recovery by the

respondent no.3-Bank before this court was compromised on 3/3/1994 on payment of a sum of Rs.40,81,000/- by way of complete satisfaction of clam of the Bank. The learned counsel for the applicant, therefore, prayed that for the very same reasons this application be also allowed.

5. It is clear from the affidavit filed on behalf of the respondent no.1 in this application that the directors of M/s. Sunain Trading Pvt. Ltd. and M/s. Chitij Trading Pvt. Ltd. were arraigned as accused on account of the loan transactions with the respondent no.3-Bank or the credit facilities granted by the said Bank to these companies. In Criminal Application No. 5264 of 2004 the respondent no.3-Bank gave a clean chit to Shri Narain Mohan Chaturvedi, one of the three directors. I find no reason to take a different view than the view taken by this court in Criminal Application No. 5264 of 2004 allowed on 22/12/2006 and more particularly when the said judgment has received its finality in as much as there is nothing placed before me to point out that the said

decision is under challenge before the Supreme Court of India as of now.

6. Hence, for the reasons set out in this Court's Judgment dated 22/12/2006 allowing Criminal Application No. 5264 of 2004, this application also succeeds and the same is hereby allowed. Rule is made absolute in terms of prayer clause (b), however, only to the extent of the present applicant.

(B.H. Marlapalle,J.)